

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PRIMO'S RESTAURANT,

Plaintiff,

v.

THOMAS RIDGE, as Secretary of the
Department of Homeland Security;
EDUARDO AGUIRRE, Director of U.S.
Citizenship & Immigration Services; Paul
NOVAK, as Center Director of the U.S.
Citizenship & Immigration Services for
Vermont Service Center,

Defendant.

Civil Action No. 04-12162-NG

**PARTIES' REVISED JOINT STATEMENT
IN ACCORDANCE WITH LOCAL RULE 16.1(D)**

Plaintiff and Defendant hereby submit the following revised joint statement regarding pre-trial scheduling. The revision is the result of the parties' efforts to try and resolve this matter through the review of additional documentation submitted to the U.S. Citizenship and Immigration Services (USCIS or Service). After review the USCIS determined that the additional documentation did not alter the agency's prior decision. Accordingly the parties are prepared to go forward with the submission of cross-motions for summary judgment.

The Plaintiff challenges the July 9, 2004, decision of the Vermont Service Center (VSC) of the USCIS. In that decision, the VSC denied the I-140 Immigrant Worker petition filed by Petitioner Primo's Restaurant to obtain an employment-based immigrant worker visa for Bahadur Singh as an unskilled worker (cook), under section 203 (b)(3)(A)(iii) of the Immigration and Nationality Act ("INA"). Plaintiff initiated the instant litigation when VSC rejected Petitioner's administrative appeal of this decision. On January 5, 2005, VSC retracted

that rejection and permitted Petitioner's appeal. The USCIS Administrative Appeals Office (AAO) affirmed the VSC decision on January 31, 2005. Defendants filed an Answer to the Complaint on March 9, 2005.

1. Automatic Disclosure Pursuant to Local Rule 26.2(A)

This case seeks review of a final agency action based on the agency's administrative record. The administrative record for the administrative proceedings has been compiled and will be made available to Plaintiff's counsel by August 11, 2006.

2. Joint Discovery Plan

This case seeks review of a final agency action based on the agency's administrative record and is not expected to require traditional discovery. The case is likely to involve motion practice and may eventually be disposed of on Summary Judgment. Therefore, the Defendants believe that discovery is not necessary at this time. However, each party reserves the right to file a motion with the Court to request discovery if they believe discovery is warranted.

3. Proposed Procedural and Motion Schedule

On or before September 22, 2006 Defendants' Motion for Summary Judgment filed.

October 6, 2006 Plaintiff's Opposition and Cross-Motion for Summary Judgment filed.

Oral argument and/or hearing at the Court's discretion.

4. Certification of Budget and ADR Conference

Plaintiff

Plaintiffs' counsel certifies that he has conferred with the plaintiff: (1) with a view toward establishing a budget for the costs of conducting the full course – and various alternative courses – of the litigation; and (2) to consider the resolution of the litigation through the use of

alternative dispute resolution programs such as those outlined in Local Rule 16.4.

Defendants

Defendants' counsel certifies that he has conferred with an authorized representative of the defendant: (1) with a view toward establishing a budget for the costs of conducting the full course – and various alternative courses – of the litigation; and (2) to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

The certification of all parties and their respective counsels are in the process of being obtained.

5. Settlement Proposals

There are no settlement proposals pending at this time.

Respectfully submitted,

For the Plaintiff,

PRIMO'S RESTAURANT

For the Federal Defendants,

DEPARTMENT OF HOMELAND SECURITY, et al.,

MICHAEL J. SULLIVAN
United States Attorney

/s/ Desmond Fitzgerald (By: APG) 7/14/2006

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By: /s/ Anton P. Giedt 7/14/2006

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CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
DATE: July 14, 2006

I, Anton P. Giedt, Assistant U.S. Attorney, do hereby certify that I have this day served a copy of the foregoing upon the Plaintiff's counsel of record through electronic filing.

/s/ Anton P. Giedt
Anton P. Giedt
Assistant U.S. Attorney

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